IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06/08/2003

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

C.R.P.NPD.No.920 OF 2003
AND C.R.P.NPD.NOS. 1104 and 1105 of 2003
and
CMP Nos.9557, 11652 and 11644 of 2003

P.S.Muthusamy .. Petitioner in
CRP 920/03

1. Rasammal
2. Anantha Krishnan
3. Kasthuri
4. Venkatesan
5. Pushpa .. Petitioners in
CRP 1104/03

1. Valliammal
2. Selvam
3. Sekar .. Petitioners in
CRP 1105/03

-Vs-

1. G.Deenadayalan .. Respondents in
CRP 920 & 1105/03 and
1st respondent in
CRP 1104/03
2. Vasantha
3. Minor Shanmugham
4. Minor Renuka
(RR2 to 4 are given up) .. Respondents 2 to 4
in CRP 1104/03

These civil revision petitions are preferred under Sec.25 of The Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960 as amended by Act 23 of 1973 and Act 1 of 1980 against the common judgment and decrees dated 13.3.2003 in R.C.A.Nos.4, 5 and 6 of 2002 passed by the Appellate Authority (Sub-Court) Kulithalai, confirming the fair and decretal orders dated 8.10.2001 in R.C.O.P.Nos.69, 70 and 71 of 1986 passed by the Rent Controller, Principal District Munsif, Karur.

!For Petitioners : Mr.K.Sukumaran

^For Respondents : Mr.G.Shanmugam

:COMMON ORDER

These revision petitions have arisen from a common judgment rendered by the Rent Control Appellate Authority, Kulithalai, confirming the orders of the Rent Controller, Karur in three R.C.O.Ps.69, 70 and 71 of 1986.

2. Heard both the Counsel for the parties. The Court on consideration of the submissions made and careful scrutiny of the available materials, is of the considered view that no case is made out even to make an admission of the revision petitions.

3. The said R.C.O.Ps.69, 70 and 71/86 were filed by the respondent/ landlord Deenadayalan under Ss 10(2)(i), 10(3)(a)(i) and 14(i)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, alleging that the revision petitioners herein were tenants in respect of the petition mentioned premises respectively; that they have been paying the rents to the previous landlord; that he purchased the property; that thereafter, the rents were paid to him; that there were occasions where the rents were sent by money orders; that subsequently they committed willful default in payment of rental; and that now the premises is required for the purposes of demolition and reconstruction and for personal occupation also. This was seriously contested by the revision petitioners/tenants interalia that originally they were not tenants; that what was taken by them was only a vacant site, wherein constructions were made by them; that there was no wilful default on their part in paying the rents; that the building is not required by the landlord either for demolition or for personal occupation, since he is owning two properties in that place, and hence, all the three R.C.O.Ps. deserve to be dismissed. The learned Rent Controller on a proper enquiry, though negatived the ground of wilful default, agreed with the case of the respondent/landlord that the building is required for demolition and reconstruction and found that the requirement of the building by the landlord for personal occupation was genuine and ordered all the R.C.O.Ps. accordingly. Aggrieved revision petitioners/ tenants took it on appeal before the Rent Control Appellate Authority in R.C.A.Nos.4, 5 and 6 of 2002. The learned Appellate Authority after due enquiry, affirmed the orders of the Rent Controller on both grounds and rightly too.

4. The Court had a thorough scrutiny of the orders of the Rent Controller and the common judgment of the learned Rent Control Appellate Authority affirming the orders of the Rent Controller.

5. The respondent/landlord sought eviction on the two grounds namely one for personal occupation and the other for demolition and reconstruction. It is an admitted position that the building is 60 years old, and these revision petitioners/tenants came into occupation of the building in the year 1955, and while so, it required demolition and reconstruction. It is pertinent to note that an Advocate Commissioner was appointed and he has given his report. That apart, according to the revision petitioners/tenants, the respondent/landlord had got two buildings, and hence, the requirement of the instant building for personal occupation was not true. Both the Authorities below have negatived this contention on the ground that one of these two properties alleged to have been owned by the respondent/landlord was used by him for the purpose of carrying on his bamboo trade, while the other belonged to his wife, and hence, the plea put forth by the tenants could not be

accepted. Thus, both the Authorities below only on sound and well balanced reasoning have rejected the defence plea and have granted the order of eviction.

6. Apart from the above, another contention put forth by the revision petitioners/tenants that they entered into the property, while it was a vacant site, and the constructions were raised by them subsequently was rightly negatived by the Authorities below finding that there is sufficient and ample evidence to show that these revision petitioners/tenants had made rental payments to the previous landlord and continued to pay the rents to the respondent/landlord; and that there were occasions to send it by money orders also. Hence, the said contention of the revision petitioners' side has no foundation at all. The Court is unable to notice any substance in these revision petitions.

7. It is contended by the learned Counsel for the respondent/ landlord that payments of rents are due for a long time. But, according to the learned Counsel for the revision petitioners/tenants, they have been paying the monthly rental at the rate of Rs.20/-, Rs.20/- and Rs.25/- respectively, and these amounts have been deposited all along in the Bank, and they are ready to withdraw and hand over the same to the respondent/landlord. The learned Counsel for the revision petitioners would submit that if for any reason the Court is of the view that the revision petitions have got to be dismissed at this stage, sufficient time has got to be given to the tenants to vacate the premises in order to switch over to some other property, to which course the learned Counsel for the respondent/landlord has no objection, but would add that a reasonable time could be granted. Taking into consideration the facts and circumstances of the case and in the interest of justice, 18 months time is given to the revision petitioners to vacate the premises. So far as the payment of rental is concerned, the rentals due till this time, which according to the revision petitioners have been deposited in the Bank, shall be withdrawn and paid to the respondent/landlord within a period of one month herefrom. According to the learned Counsel for the respondent/landlord, there must be enhancement of rent. The revision petitioners' Counsel would submit that they are agreeing to pay the rental at the rate of Rs.200/- per month for each premises for the coming 18 months. Accordingly, the revision petitioners/tenants are directed to pay the rental at the rate of Rs.200/- per month for each premises to the landlord directly within 10th of every succeeding month till the time of handing over of vacant possession i.e. for a period of 18 months herefrom. In the event of the revision petitioners' failure either to hand over possession to the respondent/landlord or to make the future rental payment within the stipulated time, the respondent/landlord is entitled to initiate execution proceedings before the concerned forum.

8. In the result, with the above directions, all the three civil revision petitions are dismissed. No costs. Consequently, connected CMPs are also dismissed.

Index: Yes
Internet: Yes

To:

1) The Appellate Authority-Subordinate Judge,

Kulithalai.
2) The Rent Controller-Principal District Munsif,
Karur.

nsv/